IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 3053 of 2006(L)

PETITIONERS:
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1. N. THANKAM, AGED 52 YEARS,
W/O. LATE SATHYAVRUTHAN, WATCHMAN,
FOOD CORPORATION OF INDIA, KOLLAM,
RESIDING AT S.T. BHAVAN, OORUKONATHUVILA,
KUKDAVOOR, THIRUVANANTHAPURAM DIST.

2. SONIJI S.T., D/O. LATE N.SATHYAVRUTHAN,
AGED 26 YEARS, RESIDING AT S.T. BHAVAN,
OORUKONATHUVILA, KUDAVOOR,THIRUVANANTHAPURAM DIST.

BY ADV. SRI.G.D.PANICKER
SMT.JEENA JOSEPH

RESPONDENTS:
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1. THE EXECUTIVE DIRECTOR (SOUTH),
OFFICE OF THE ZONAL MANAGER, FOOD CORPORATION OF
INDIA, ZONAL OFFICE, NO.3 HADDOWS ROAD,CHENNAI-06.

2. DISTRICT MANAGER,
FOOD CORPORATION OF INDIA, DISTRICT OFFICE,
KOLLAM.

BY ADV. SRI.P.JACOB VARGHESE, SC, FCI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.3053/06

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF THE CERTIFICATE DATED 13/10/2000 ISSUED BY TAHSILDAR, THIRUVANANTHAPURAM.

EXT.P2: TRUE PHOTOCOPY OF TE APPLICATION FOR EMPLOYMENT FOR THE 2ND PETITIONER IN A SUITABLE POST SUBMITTED ON 3/2/2001.

EXT.P3: TRUE PHOTOCOPY OF THE LETTER OF CONSENT DATED 20/1/2001.

EXT.P4: TRUE PHOTOCOPY OF THE CERTIFICTE ISSUED BY THE TAHSILDAR, THIRUVANANTHAPURAM ON 3/11/2003.

EXT.P5: TRUE PHOTOCOPY OF THE LETTER NO.EII/1(14)/01/239 DATED 11/10/2003 FROM THE 1ST RESPONDNT.

EXT.P6: TRUE PHOTOCOPY OF THE LETTER NO.ESTT/14(1)/2003 DMO DATED 13/11/2003.

EXT.P7: TRUE PHOTOCOPY OF THE LETTER DATED 22/2/2005 FROM THE 1ST PETITIONER.

EXT.P8: TRUE PHOTOCOPY OF THE LEGAL NOTICE DATED 25/5/2005 ADDRESSED TO THE 1ST RESPONDENT.

EXT.P9: A TRUE PHOTOCOPY OF THE JUDGMNT DATED 3/10/2005 IN WPC NO.28038/2005.

EXT.P10: TRUE PHOTOCOPY OF THE ORDER DATED 19/1/2006.

EXT.P11: A TRUE PHOTOCOPY OF THE LETTER DATED 9.9.2004.

EXT.P12: TRUE PHOTOCOPY OF THE CERTIFICATE DATED 29/1/2001 ISSUED BY THE VILLAGE OFFICER.

EXT.P13: TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED ON 8/6/2006 BY THE VILLAGE OFFICER, MELTHONNAKKAL.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 3053 OF 2006
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Dated this the 17th day of August, 2007

J U D G M E N T

Petitioners are the wife and daughter of late Sathyavruthan, a watchman in the office of the 2nd respondent. He expired on 19/5/2000 and claiming employment on compassionate grounds for the 2nd petitioner, Ext.P2 application was made on 3/2/01. The other members of the family had relinquished their claims by Ext.P3 and that was also forwarded to the respondents for processing Ext.P2 application. Thereafter, by Ext.P5, certain information was sought and were furnished by Ext.P6. Even thereafter, there was no progress in the matter and the petitioner sent Ext.P7 reminder followed by Ext.P8, a lawyer notice. Still later, they filed WPC 28038/05, which was disposed of by this court by Ext.P9 judgment directing the respondents to consider the claim of the petitioners in terms of the scheme for compassionate appointment. Thereafter respondents issued Ext.P10, by which petitioners were informed that the application

was rejected. It is challenging Ext.P10 and seeking an order directing appointment on compassionate grounds to the second petitioner, that this writ petition is filed.

2. Learned counsel for the writ petitioners submitted that the respondents have proceeded on the basis that the application was received only in the year 2005 while Ext.P2 application was made as early as in 2001. According to her, the respondents were not willing to consider the application and when they were compelled to consider the application in terms of the judgment of this court, they rejected the claim assigning unsustainable reasons. The petitioners would also point out that though the application was made in 2001, the claim was considered as against the vacancies of 2004 onwards only. According to them, the application being of 2001, the respondents ought to have considered the claim of the second petitioner as against the vacancies of 2001, 2002 or 2003. This having not done, the

respondents were not justified in rejecting the claim by Ext.P10 as a belated one, submits the counsel. The petitioner also points out that the dependant of late Sri.G.K.Raveendran, who expired on 19/5/2000 was appointed by the respondents in 2004 ignoring the superior claim of the second petitioner.

3. In so far as application made by the second petitioner is concerned, that is Ext.P2 of 3/2/01 and Ext.P10 is the order rejecting the claim, wherein, it is stated that in terms of the Government of India guidelines, application can be kept alive only for a period of three years and that in 2004 enough number of vacancies were not available for admitting the second petitioner. It is also stated that although respondents had earmarked 5% of the vacancies for appointment under the scheme for compassionate employment, in 2005 also they could not make any appointments for want of vacancies. It is also stated that in terms of the Government of India instructions, circulated by the Head Office of the respondents, application

could be kept alive only for three years and that on expiry of the three years, the application had to be rejected.

4. It is not the second petitioner's case that during 2001-04 any appointment has been made. Petitioners have not pointed out a single instance during this period wherein any such appointment has been made. On the other hand, the only complaint of the petitioners is that ignoring second petitioner's superior claim, Sri.Mahesh, dependant of late Sri.G.Raveendran was appointed in 2004 and that the 2nd petitioner should have been appointed in his place. In the absence of a contention that at any time prior to 2004, appointments were made by the respondents, prejudice is caused to the petitioners, even if the application was not considered earlier.

5. In the counter affidavit filed by the respondents, it is stated that according to the FCI Staff Regulations 1971, for appointment to the post of Assistant Grade III, minimum qualification prescribed is Graduation and Middle Standard Pass

for category IV post It is stated that Sri.Mahesh, dependant of late Sri.Raveendran was a graduate at the time of submission of his application for appointment and that he was found to be suitable in terms of the various parameters laid down by them. It was accordingly that Sri.Mahesh was selected based on the penurious condition/destitution of the family of the deceased and was eventually appointed taking into account his qualification as a Graduate. It is stated that at the time when the application was made by the 2nd petitioner in 2001, she was not qualified for consideration to the entry level category III post, for which graduation is an essential qualification. It is stated that her acquisition of BA degree was intimated to the Regional Office vide letter dated 24/9/04 for incorporation in the records and that by that time the processing of appointment of Sri.Mahesh was completed. If that be so, Graduation being an essential qualification for Category III post, Sri.Mahesh being a graduate at the relevant time, second petitioner cannot have any

complaint in this regard, as she was unqualified for the post.

6. The reasons pointed out are that the family of the second petitioner is not a penurious one deserving employment under the scheme. It is pointed out in Para 6 of the counter affidavit that on the death of the employee, towards various benefits that were payable to the dependants, respondents have been paid an amount of Rs.4,64,129/-, out of which deduction has been made of Rs.52,161/-. In addition to this, they were also paid Rs.16,500/- towards immediate relief from the benevolent fund of Food Corporation of India and also a sum of Rs.7,025/- towards reimbursement of medical expenses of the deceased. The respondents have also pointed out that in the statement of immovable property filed by the deceased in the year 1999, it was revealed that he was having immovable properties of having an extent of 4 acres and in addition to that, another plot of 10 cents with a residential house therein. Although the petitioners have produced a certificate issued by the

Village Office dated 8/6/06, certifying that what the family owns is only 4 ares of land, I see no reason why the declaration made by the deceased should not be believed. These circumstances also would indicate that the family is not in a penurious situation deserving assistance under compassionate employment.

In view of the time limit fixed by the respondents in the scheme for employment assistance and also no appointment is proved to have been made overlooking the 2nd petitioner's claim during the period when the application was kept alive, I see no merit in the contentions raised by the petitioners and this writ petition is dismissed.

ANTONY DOMINIC, JUDGE.

Rp